



James P. Hallan, President and Chief Executive Officer
Testimony on House Bill 4158 (H-3), Senate Economic Development Committee
February 23, 2011

Thank you, Chairman Kowall, for the opportunity to testify today on a fundamental retail issue, one that reflects Michigan's need to reinvent itself.

I'm Jim Hallan, president and chief executive officer of the Michigan Retailers Association, a statewide trade association based here in Lansing. We represent nearly 5,000 member businesses and their more than 12,000 stores throughout the state — everyone from the smallest family-owned shops to the largest regional and national chains. MRA was formed in 1940, so we've been representing the retail community for over 71 years. I'm also honored to be here representing the Retail Pricing Modernization Coalition.

As you all know, this issue has received a fair amount of attention in recent weeks — and I welcome the opportunity to discuss why this legislation is important for Michigan, and to clear up any confusion about what it will do.

First, and foremost, the bill before you today represents a compromise between the Attorney General, AARP and the retail community. All parties worked together in good faith to iron out differences and make sure that you had a clean bill to review. This bill does that.

This bill is good legislation in three respects.

- First, this bill is good for retail.
- Second, it's good for consumers and maintains important consumer protections.
- Third, it's good for Michigan.

Gov. Snyder said in his State of the State Message that "it's time for Michigan to throw off the shackles of outdated, overly burdensome and unnecessary regulations." He cited Michigan's Item Pricing law as Exhibit A. Gov. Snyder is absolutely right on this issue.

Your committee's review and action to move this issue forward will make a strong and positive statement that Michigan is finally ready to start competing for the future.

Never in my 25 years of dealing with item pricing have I seen retailers and other businesses come together with such an overwhelming and unified focus on helping Michigan achieve the reforms necessary to make our state competitive again. I don't know of a single retailer opposed to reform of item pricing. I am also encouraged by the strong, broad-based editorial support that recognizes the need for reform. Support has even come from newspapers that have been opposed to reform in the past.

Let's look at the facts. Michigan's Item Pricing Law was enacted in 1976 — 35 years ago — as a response to fears about the accuracy of what was then new-fangled technology of retail barcodes and checkout scanners. That futuristic technology used a "laser beam" to magically ring up the price from those short, black lines that make up the barcodes.

It's interesting that Gov. Snyder likes to talk about "dog years" when referring to how fast we need to reinvent Michigan — seven years of work compressed into one year. But even dog years seem slow when we talk about how fast technology changes and improves over time.

The Michigan Legislature approved the item pricing law in 1976. To put the distance between 1976 and today into perspective in terms of the rapid advancement of technology, consider that ...

- A company with the unusual corporate name of Apple was established on April 1, 1976. Its only product was the Apple I personal computer *kit* — a crude forerunner of what would eventually become the first personal computer. The kits were hand-built by one of the founders.

- In 1976, cellular networks and cell phones were still years away.

- And, in 1976, Sony had just launched the groundbreaking but ill-fated Betamax videocassette recording format, two years ahead of VHS. That was a full three years before Sony would introduce the world's first portable music player, the Walkman.

- Then I ask you to consider that almost all of us in this room now carry around in our pockets or purses a smartphone that has vastly *more* computing power, *more* phone capacity and *more* entertainment capabilities than anything in existence or ever dreamed about in 1976.

My point is that we live in a much different world than we did in 1976. Technology improves and advances. People have become extremely comfortable with technology and depend on it all day, every day. But current law, as it applies to retailing, does not recognize the way we now live — nor does it anticipate or allow the technologies that have not yet been invented. Michigan should no longer run from technology; we should embrace technology that improves our lives and our businesses.

So, we can chuckle at some of the 1970s technology that has gone the way of the buggy whip. But I assure you, Michigan's Item Pricing law is no laughing matter.

We commissioned the highly regarded Anderson Economic Group, a national economic evaluation firm headquartered in East Lansing, to look at the Item Pricing Law in depth. They concluded that, conservatively, the state's mandate to individually put a price sticker on virtually every item for sale in a store costs Michigan retailers and their customers more than \$2.2 billion every year. That's a more than \$2.2 billion hidden "load" on our economy that hurts all of us.

This drag on our economy makes Michigan uncompetitive when it comes to attracting business investment and jobs. Only two states have such a restrictive law — Michigan and Massachusetts, and Massachusetts' law only applies to food items. In other words, Michigan stands alone among the 50 states and sticks out like a sore thumb. Put another way, we are dead last.

Just as important, our item pricing law prevents our residents from enjoying the technological advances and better shopping experiences available to shoppers in other states. No retailer is going to invest in new technologies in Michigan while still stuck with the duplicative costs of sticking a messy, adhesive price sticker on every item of merchandise.

To repeat, on this issue Michigan is dead last, and it makes no sense. Forty-nine other states — and the shoppers and retail businesses in those states — are ahead of us. Our goal with this legislation is for Michigan to be #1 — not #50, or even #40 or #20. We need to be #1.

Here is what the Shopping Reform and Modernization Act will do:

- It creates a climate that attracts new jobs, investment and innovation;
- It ends a \$2.2 billion hidden load — a drag — on Michigan's economy;
- It upholds Michigan's proud history of consumer protection by retaining the popular "bounty" provision that requires payment of the difference, plus 10 times the difference, between the stated price and the price charged at checkout;
- It also protects shoppers by maintaining "rain check" provisions in current state law;
- It allows retailers the marketplace flexibility to utilize new methods that clearly and reasonably convey the current price of the consumer item, to a consumer when in the store at the place where the item is located, and
- It reinforces Attorney General oversight, with tough penalties for violators.

And here, contrary to some of the misinformation you may have heard, is what the legislation will *not* do:

- It will *not* result in lost retail jobs in Michigan's economy. The Anderson study found that retail employment levels are the same in Michigan as they are in surrounding states without item pricing. If item pricing were really a source of retail jobs, Michigan's stores would have significantly more employees than stores in other states.

What it does do, is allow retailers to **redeploy** their employees to new, high-value jobs. That could mean opening up more customer checkout lanes and providing more assistance to customers. After all, it is much better to have a clerk face you and help you than it is to have the clerk's back to you while he or she is putting stickers on items.

- It also will *not* mean that consumers won't know the price of an item. The legislation requires retailers to clearly and reasonably convey the current price of an item to a consumer at the place where the item is located. All the legislation does is provide a retailer with the flexibility to indicate the price in a way that is best for that store and the store's customers. Some retailers will continue to put individual price tags on items, some will use bin pricing, others shelf pricing, others new technology that is now available, or new technology that is yet to be developed.

Think about it. Retailers hardly want prices to be a secret — we spend millions of dollars a year on advertising and other promotions to let consumers know our prices right down to the

penny. And in the end analysis, the marketplace will decide whether consumers like how a retailer displays price.

If they don't like it, customers will vote with their feet and go elsewhere. Retail is a very competitive industry, and if a retailer is not in tune with its customer base, that retailer will not be around for long. Word gets around fast, especially with 21st Century technology and social media such as Facebook and Twitter.

I will conclude by stating the obvious: Michigan is stuck in the mud and is in economic crisis. You all recognize that, and it's why most of you wanted to become a legislator. You wanted your leadership to make a difference and to help Michigan become nationally and globally competitive once again.

This is a core issue: do we want to languish and be stuck in the '70s ... or do we want to give ourselves an opportunity to let technology develop and be mainstream with other states?

The answer is pretty clear. This legislation is part of the solution.

Thank you for the opportunity to provide comments. We urge your favorable consideration of HB 4158 (H-3).